

REQUEST FOR COUNCIL ACTION

SUBJECT: Proposed land exchange between the City of West Jordan and Salt Lake County.

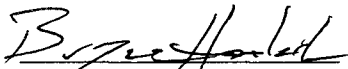
SUMMARY: The County and City have been negotiating a proposed exchange of property and the terms of the enclosed agreements. The Council will need to determine if the terms of the contract are in line with the anticipated use of the properties by both entities.

FISCAL IMPACT: Staff is unable to determine what fiscal impact the City will have with the transaction other than closing costs and recording fees (if applicable).

STAFF RECOMMENDATION: Based on information provided to staff, there is a concern if the terms of the agreements will allow the equitable and fair use of the parking and full property by the individual entities. We encourage the Council to consider the anticipated partnership and whether the language of the Cross Easement Agreement will fulfill the anticipated needs and uses in perpetuity. Legal staff has been unable to review the current agreements at the time that this document was prepared.

MOTION RECOMMENDED: Staff is not prepared to offer a recommendation based on the language in the agreement that appears to conflict with Council direction.

Prepared by:



Bryce Haderlie
Interim City Manager

Attachment A
(Questions for Council Consideration)

Attachment B
(Agreements)

Memorandum

To: City Council

From: Bryce Haderlie, Interim City Manager 

Date: 10/3/2014

Re: County Land Swap Agreements

In order to ensure that the agreements contain the necessary rights, privileges and protections desired by the Council, staff has prepared the following questions for you to consider as we discuss them in the Council meeting. In spite of the direction given to our staff, and the requests that have been made to Salt Lake County staff, we do not feel confident that all of the City's interests have been ensured to the satisfaction of your direction. We hope that this document will aid in the discussion. Please feel free to contact us prior to the meeting to answer any questions that you might have.

Interlocal Cooperation Agreement

1. Do you still want the 60-day inspection period? (If so, the date of closing must be at least 60 days after the effective date of the agreement)
2. Do you want the reservation of easements for maintenance, repair and replacement of existing waterline, storm drain line, emergency generator(s) and air conditioning tower to be stated in the Interlocal Cooperation Agreement and the deed, or just in the deed?
3. Do you want the right of first refusal to be stated in the Interlocal Cooperation Agreement and the deed, or just in the deed?
4. Do you want any control or right of coordination over the future use of the County property?
5. Do you want the County or other future owner of the County property to have any control or right of coordination over the City's future use of the City Hall property?

Cross Easement Agreement

1. Do you want the County or any future owner of the County property to have the ability to reserve parking spaces on that property exclusively for use of that owner? If so, is there a limit?
2. Do you want the City or any future owner of the City Hall property to have the ability to reserve parking spaces on the City Hall property exclusively for the City's or future owner's use? If so, is there a limit?
3. Do you want a mutual obligation to notify the other party of upcoming activities, events, etc. that may require parking use over and above the normal?
4. Do you want all cross parking to be free of charge?

5. Do you want the County or any future owner of the County property to be able to reconfigure, expand or contract the amount of parking on their property (i.e. through additional building or building expansion)?
6. Do you want the City or any future owner of the City Hall property to be able to reconfigure, expand or contract the amount of parking on the City Hall property (i.e. through additional building or building expansion)?
7. Do you want cross-parking rights to be automatically transferred with the property?
8. Would your opinions to the foregoing questions change if a future owner was not a government agency or not providing a City approved public service?
9. Do you want cross-parking rights to expire if the use of one of the properties (either the County property or City Hall) ceases to be used for a public purpose?

Interlocal Cooperation Agreement

THIS INTERLOCAL COOPERATION AGREEMENT (this "*Agreement*") is made effective _____, 2014 ("*Effective Date*"), by and between **SALT LAKE COUNTY**, a body corporate and politic of the state of Utah ("*County*"), and the **CITY OF WEST JORDAN, UTAH**, a municipal corporation and political subdivision of the State of Utah (the "*City*"). The County and the City are individually referred to herein sometimes as a "*Party*" and collectively as the "*Parties*."

RECITALS:

A. UTAH CODE ANN. §11-13-202 and other provisions of the Interlocal Cooperation Act (codified as UTAH CODE ANN. § 11-13-101, *et seq.*) (the "*Act*") provides that any two or more public agencies may enter into an agreement with one another for joint or cooperative actions.

B. UTAH CODE ANN. §11-13-214 provides that any public agency may convey property to or acquire property from any other public agencies for consideration as may be agreed upon.

C. The County and the City are public agencies for purposes of the Act.

D. The County owns fee title to certain real property located at 1970 West 7800 South, West Jordan, Utah, identified as Parcel No. 21-27-357-022, more particularly described on Exhibit A attached hereto (the "*County Property*").

E. The City owns fee title to certain real property located at approximately 7971 South 1825 West, West Jordan, Utah, identified as Parcel No. 21-34-128-018, more particularly described on Exhibit B attached hereto (the "*City Property*").

F. The value of the County Property to the City is essentially equivalent to the value of the City Property to the County. The County Property and the City Property are individually referred to herein sometimes as a "*Parcel*" and collectively as the "*Parcels*."

G. The County and the City would like to exchange title to the Parcels so that the County will own the City Property, which it currently intends to use as the potential future site of a Salt Lake County Health Department building, and the City will own the County Property and be able to use the County Property for a cultural arts center.

H. The Parties, wishing to memorialize their arrangement, enter into this Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

Section 1. **Conveyance.**

(a) Upon the terms and subject to the conditions and contingencies set forth herein the County hereby agrees to convey the County Property to the City, free and clear of financial encumbrances.

(b) Upon the terms and subject to the conditions and contingencies set forth herein, the City hereby agrees to convey the City Property to the County, free and clear of financial encumbrances.

(c) As of Closing (defined below), each Party as grantor hereunder (the "*Grantor Party*") shall deliver or cause to be conveyed to the other Party as grantee hereunder ("*Grantee Party*"), a special warranty deed (each a "*Deed*"), the form of which for the County Property is attached hereto as Exhibit C and incorporated herein by this reference, and the form of which for the City Property is attached hereto as Exhibit D and incorporated herein by this reference.

Section 2. **Consideration.** The Parties have each obtained and reviewed appraisals for the Parcels, and although the appraised values are somewhat different, the Parties hereby agree that the value of the County Property to the City is essentially equivalent to the value of the City Property to the County. As consideration for this Agreement, title to the County Property shall be exchanged for title to the City Property (the "*Exchange*") and no other consideration shall be required for the Exchange, except that the Parties agree that at Closing that they shall also enter into the Cross Easement Agreement, attached hereto as Exhibit E and incorporated herein by this reference, regarding the use of parking on and adjacent to the City Property.

Section 3. **Closing.** A closing for the Exchange pursuant to terms of this Agreement (the "Closing") shall take place in the offices of Founders Title Company (the "*Escrow Agent*") on or before November 6, 2014. The Grantor Party agrees to deliver possession of its Parcel at Closing, free of any right of possession or claim to right of possession by any third party. Until Closing occurs, the risk of loss to a Parcel shall be borne solely by the Party owning such Parcel. Real property taxes and assessments relating to the Parcels shall be prorated as of Closing. The Grantor Party shall be responsible for and shall promptly pay all charges with respect to its Parcel attributable to the period up to and including Closing. Each of the Parties shall pay its own fees and expenses in connection with this Agreement including, without limitation, its own attorneys' fees, diligence costs, and recording fees. The Parties shall share equally in the closing costs charged by the Escrow Agent.

Section 4. **Escrow Agent.** Upon the execution of this Agreement, the Parties shall establish an escrow with the Escrow Agent for the purpose of consummating the Exchange, by executing, if required by Escrow Agent, Escrow Agent's standard escrow instructions. If standard escrow instructions are not required by Escrow Agent, this Agreement shall serve as Escrow Agent's instructions. If standard escrow instructions are required by Escrow Agent and there is any inconsistency between the standard escrow instructions and this Agreement, this Agreement shall control. The Closing shall be consummated through Escrow Agent's escrow. In addition to the deeds and other instruments contemplated to be delivered at Closing pursuant to this Agreement, the

Parties shall each also execute and deliver such documents as are usual, customary and/or necessary for commercial real estate closings.

Section 5. **Title.** The Grantor Party shall deliver or cause to be delivered to the Grantee Party, at no expense to the Grantee Party, within fifteen (15) days of the Effective Date of this Agreement, a title insurance commitment ("*Title Commitment*") prepared by Escrow Agent covering the Grantor Party's Parcel committing to issue to the Grantee Party, upon the recording of the respective Deed, a standard owner's policy of title insurance in an amount reasonably established by the Grantee Party. Each such title policy shall insure the Grantee Party's fee simple title to the respective Parcel, subject only to the Permitted Exceptions (defined below). Copies of all instruments and documents referred to in the Title Commitment shall be provided with the Title Commitment. Each Grantee Party will have thirty (30) days after receipt of the Title Commitment to review the status of the title ("*Title Review Period*"). If the Grantee Party has not given notice of objections within the Title Review Period, the Grantee Party will be deemed to have consented to the status of title to the respective Parcel. If, within the Title Review Period, the Grantee Party gives notice of bona fide objections specifying defect(s) rendering the title unmarketable, the Grantor Party shall attempt in good faith to cure such defects. Notwithstanding anything in this Agreement to the contrary, each Grantee Party acknowledges and agrees that the Grantor Party shall have no obligation to cure any objection or defect to title. If a Grantee Party's objections are not cured by the Grantor Party within ten (10) days from notice of objections, the Grantee Party may either waive such title objections and proceed to, and complete, Closing or terminate this Agreement by delivering written notice to the other Party. All exceptions listed on each Title Commitment which are not objected to by the Grantee Party are referred to herein collectively as the "*Permitted Exceptions*." Notwithstanding any other provision of this Agreement, the Permitted Exceptions shall not include, and each Grantor Party shall convey and warrant the respective Parcel to the Grantee Party free and clear of, any lien or encumbrance on the respective Parcel that secures the payment of money, or that may be removed or satisfied by the payment of money, but not including the lien of taxes or assessments not yet due or payable as of the Closing.

The Grantor Party shall pay the cost of a standard owner's policy of title insurance obtained on the Parcel it is conveying. The Grantee Party shall be responsible for the cost of any endorsements it requires above the cost of a standard policy.

Section 6. **Disclosures.** No later than fifteen (15) calendar days after the Effective Date of this Agreement, the Grantor Party will deliver to the Grantee Party the following documents to the extent the same are in the Grantor Party's possession or control: (a) a Seller's Property Condition Disclosure for the Grantor Party's Parcel, signed and dated by the Grantor Party, (b) copies of all rights-of-way, easements, leases, rental agreements, rights of redemption, licenses, reservations, covenants, conditions, restrictions, or contracts which will be applicable to, or affect title to the Parcel after closing; (c) copies of any environmental assessments, reports, site plans, or other documents in the Grantor Party's possession or control.

Section 7. **Inspection Review.** The Grantee Party will have an inspection period (the "*Inspection Period*") of sixty (60) days from the Effective Date of this Agreement in which to investigate the Grantor Party's Parcel(s). During the Inspection Period, the Grantee Party may, in its sole discretion, cancel the Agreement at any time for any reason by delivery of written notice to the Grantor Party. The Grantee Party and its representatives, consultants and contractors shall at all

times have the privilege, opportunity and right of entering upon the Grantor Party's Parcel(s) in order to inspect and examine the same and perform boundary, topographic and like surveys and inspections, as well as other tests and inspections (including, without limitation, geotechnical and environmental tests, studies and examinations, soil tests, borings, percolation tests and other tests needed to determine surface, subsurface and topographic conditions). If a Grantee Party desires to perform invasive sampling and testing of the soil or groundwater in regard to an environmental site assessment, such Party must first obtain the Grantor Party's written approval for the scope of work. A Grantee Party's written sampling plan must be approved by the Grantor Party, and Grantor Party's representative shall have the right to accompany the Grantee Party upon entry onto the applicable Parcel(s). All studies and environmental tests shall be performed at the sole cost and expense of the Grantee Party and shall be performed so as to prevent any damage to the Parcel(s) and not interfere with the Grantor Party's use thereof. Each Party agrees any approval or consent hereunder shall not be unreasonably withheld, delayed or conditioned. Each Grantee Party further agrees to indemnify and hold the Grantor Party harmless from and against any and all claims, liabilities, or expenses of any nature whatsoever arising out of the Grantee Party's entry and activities on the Grantor Party's Parcel(s) provided; however, that the Grantee Party shall have no liability or responsibility related to (a) preexisting contamination not otherwise aggravated by the Grantee Party, or (b) conditions or for any cause of action, expense, damage, liability, claim or injury arising from the negligence or intentional act of the Grantor Party.

Section 8. **Conditions to Closing.**

(a) Notwithstanding anything in this Agreement to the contrary and in addition to any other conditions in favor of the County, the County's obligation to close under this Agreement shall be subject to the satisfaction (or waiver by the County in writing) of the following conditions and contingencies ("*County Closing Conditions*") on and as of the Closing, or such other date as may be set forth below:

(i) The City shall have delivered to Escrow Agent the original, signed Deed to the City Property in recordable form and the signed Cross Easement Agreement, and shall have otherwise fully complied with all of the obligations and covenants in this Agreement on its part to be performed on or prior to the Closing Date and there shall be no default on the part of the City hereunder.

(ii) The City shall have delivered to the Escrow Agent such other funds, instruments and documents as may be reasonably requested by the County or Escrow Agent, or reasonably necessary to effect or carry out the purposes of this Agreement (which funds, instruments and documents shall be subject to City's prior approval thereof, which approval shall not be unreasonably withheld).

(b) Notwithstanding anything in this Agreement to the contrary and in addition to any other conditions in favor of the City, the City's obligation to close under this Agreement shall be subject to the satisfaction (or waiver by the City in writing) of the following conditions and contingencies ("*City Closing Conditions*") on and as of the Closing, or such other date as may be set forth below:

(i) The County shall have delivered to Escrow Agent the original, signed Deed to the County Property in recordable form and the signed Cross Easement Agreement, and shall have otherwise fully complied with all of the obligations and covenants in this Agreement on its part to be performed on or prior to the Closing Date and there shall be no default on the part of the County hereunder.

(ii) The County shall have delivered to the Escrow Agent such other funds, instruments and documents as may be reasonably requested by the City or Escrow Agent or reasonably necessary to effect or carry out the purposes of this Agreement (which funds, instruments and documents shall be subject to the County's prior approval thereof, which approval shall not be unreasonably withheld).

(c) Effect of Failure to Satisfy Conditions. If any Closing Condition is not satisfied as of the date required for such condition, the Party harmed by such failure may at its sole option: (i) terminate this Agreement, or (ii) if the non-satisfaction of any condition is a result of the other Party's failure or inability to perform hereunder, extend the Closing Date until such date as the other Party performs.

Section 9. "As Is" Exchange.

(a) EXCEPT AS SET FORTH IN THIS AGREEMENT AND THE DEED, THE GRANTEE PARTY IS NOT RELYING, AND HAS NOT RELIED, ON ANY REPRESENTATION, GUARANTEE, WARRANTY OR ACTION OF THE GRANTOR PARTY RELATING TO THE PROPERTY BEING CONVEYED TO THE GRANTEE PARTY, AS APPLICABLE (HEREINAFTER, THE "**CONVEYED PROPERTY**"), AND THE GRANTEE PARTY IS TAKING THE CONVEYED PROPERTY BASED UPON THE GRANTEE PARTY'S OWN INVESTIGATION, INSPECTION, KNOWLEDGE, AND UNDERSTANDING OF THE CONVEYED PROPERTY. EACH GRANTEE PARTY ACKNOWLEDGES THAT IT HAS HAD ADEQUATE TIME AND OPPORTUNITY TO INVESTIGATE THE CONVEYED PROPERTY AS IT DEEMED NECESSARY AND/OR APPROPRIATE.

(b) EACH GRANTEE PARTY HEREBY ACCEPTS THE CONVEYED PROPERTY "AS IS, WHERE IS, WITH ALL FAULTS", AND, EXCEPT AS SET FORTH IN THIS AGREEMENT AND THE DEED, WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, ORAL OR WRITTEN, AND EACH GRANTOR PARTY DOES HEREBY DISCLAIM AND RENOUNCE ANY SUCH REPRESENTATION OR WARRANTY PREVIOUSLY GIVEN OR OFFERED TO THE GRANTEE PARTY, EXCEPT TO THE EXTENT SUCH REPRESENTATION OR WARRANTY IS EXPRESSLY SET FORTH IN THIS AGREEMENT OR THE DEED. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EACH GRANTOR PARTY PROVIDES NO WARRANTIES, REPRESENTATIONS OR ASSURANCES AS TO THE ENVIRONMENTAL CONDITION OF THE CONVEYED PROPERTY, OR THE CONFORMITY OF THE CONVEYED PROPERTY WITH ANY APPLICABLE LAWS, ORDINANCES, RULES, OR REGULATIONS.

Section 10. Changes during Transaction. Both Parties agree that after executing this Agreement they will not enter into any written contracts, agreements, amendments, encumbrances, or listings, or be a party to any oral understandings or agreements affecting the Parcels, which may

become binding upon the other party. In addition, both Parties agree that no changes to any existing leases shall be made, no new leases entered into, and no alterations or improvements to the Parcels shall be made or undertaken without the written consent of the other party.

Section 11. **Agency Disclosure.** By signing this Agreement, the County and the City each represent and warrant to the other party that it is not represented by a real estate broker and neither the County nor the City is obligated to pay any real estate commission in this transaction.

Section 12. **Duration and Termination.** This Agreement shall take effect upon execution and terminate upon the performance by the Parties of all the obligations described herein. Any provision of this Agreement which contemplates performance subsequent to the expiration or earlier termination of this Agreement shall so survive such expiration or termination and shall continue in full force and effect until fully satisfied, but in no event shall this Agreement have a term longer than 50 years.

Section 13. **Additional Interlocal Act Provisions.** In compliance with the requirements of the Act and other applicable law:

(a) **No Interlocal Entity.** The Parties agree that they do not by this Agreement create an interlocal entity.

(b) **Joint Board.** As required by UTAH CODE ANN. § 11-13-207, the Parties agree that the cooperative undertaking under this Agreement shall be administered by a joint board consisting of the County's Mayor or designee and the City's Manager or designee. Any real or personal property used in the Parties' cooperative undertaking herein shall be acquired, held, and disposed in accordance with this Agreement.

(c) **Financing Joint Cooperative Undertaking and Establishing Budget.** There is no financing of joint or cooperative undertaking and no budget shall be established or maintained.

(d) **Attorney Review.** This Agreement shall be reviewed as to proper form and compliance with applicable law by the authorized attorneys for the County and the City in accordance with UTAH CODE ANN. § 11-13-202.5.

(e) **Copies.** Duly executed original counterparts of this Agreement shall be filed with the keeper of records of each party, pursuant to UTAH CODE ANN. § 11-13-209.

(f) **Manner of Acquiring, Holding or Disposing of Property.** The Parcels shall be acquired, held or disposed of as provided in this Agreement and unless agreed to herein shall not be used in a joint or cooperative undertaking.

Section 14. **General Provisions.** The following provisions are also integral parts of this Agreement:

(a) **Binding Agreement.** This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the respective Parties hereto.

(b) Captions. The headings used in this Agreement are inserted for reference purposes only and shall not be deemed to define, limit, extend, describe, or affect in any way the meaning, scope or interpretation of any of the terms or provisions of this Agreement or the intent hereof.

(c) Counterparts. This Agreement may be signed in any number of counterparts with the same effect as if the signatures upon any counterpart were upon the same instrument. All signed counterparts shall be deemed to be one original.

(d) Severability. The provisions of this Agreement are severable, and should any provision hereof be void, voidable, unenforceable or invalid, such void, voidable, unenforceable, or invalid provision shall not affect the other provisions of this Agreement.

(e) Waiver of Breach. Any waiver by either party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of or consent to any subsequent breach of this Agreement.

(f) Cumulative Remedies. The rights and remedies of the Parties hereto shall be construed cumulatively, and none of such rights and remedies shall be exclusive of, or in lieu or limitation of, any other right, remedy, or priority allowed by law.

(g) Amendment. This Agreement may not be modified except by an instrument in writing signed by the Parties hereto.

(h) Time of Essence. Time is the essence in this Agreement.

(i) Interpretation. This Agreement shall be interpreted, construed, and enforced according to the substantive laws of the state of Utah.

(j) Notice. Any notice or other communication required or permitted to be given hereunder shall be deemed to have been received (a) upon personal delivery or actual receipt thereof or (b) within three (3) days after such notice is deposited in the United States mail, certified mail postage prepaid and addressed to the Parties at their respective addresses.

(k) Exhibits and Recitals. The Recitals set forth above and all exhibits to this Agreement are incorporated herein to the same extent as if such items were set forth herein in their entirety within the body of this Agreement.

(l) Governmental Immunity. Both Parties are governmental entities under the Governmental Immunity Act, UTAH CODE ANN. § 63G-7-101, *et seq.* (the “Immunity Act”). Consistent with the terms of the Immunity Act, the Parties agree that each party is responsible and liable for any wrongful or negligent acts which it commits or which are committed by its agents, officials, or employees. Neither party waives any defenses or limits of liability otherwise available under the Immunity Act and all other applicable law, and both Parties maintain all privileges, immunities, and other rights granted by the Immunity Act and all other applicable law.

(m) Ethical Standards. The Parties hereto represent that they have not: (a)

provided an illegal gift or payoff to any officer or employee, or former officer or employee, or to any relative or business entity of an officer or employee, or relative or business entity of a former officer or employee of the other party hereto; (b) retained any person to solicit or secure this Agreement upon any contract, agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing business; (c) breached any of the ethical standards set forth in State statute or County's Ethics, Gifts and Honoraria ordinance (Chapter 2.07, SALT LAKE COUNTY CODE OF ORDINANCES [2001]); or (d) knowingly influenced, and hereby promise that they will not knowingly influence, any officer or employee or former officer or employee to breach any of the ethical standards set forth in State statute or County ordinances.

(n) Integration. This Agreement, including exhibits, constitutes the entire agreement of the Parties and supersedes all prior understandings, representations or agreements of the Parties regarding the subject matter in this document.

IN WITNESS WHEREOF, the City, by resolution duly adopted by its City Council, caused this Agreement to be signed by its Mayor and attested by its City Recorder; and the County, by resolution of its County Council, caused this Agreement to be signed by the Mayor, or his designee.

SALT LAKE COUNTY

By: _____
Mayor or Designee

Approved As To Form and Legality:

R. Christopher Preston, Deputy District Attorney

Date: _____

CITY OF WEST JORDAN, UTAH

By _____
Kim V. Wolfe, Mayor

ATTEST:

Melanie Briggs, City Recorder

Approved As To Form and Legality:

City Attorney

Date: _____

Exhibit A
To Interlocal Cooperation Agreement

(Description of County Property)

Exhibit B
To Interlocal Cooperation Agreement

(Description of City Property)

Exhibit C
To Interlocal Cooperation Agreement

(Special Warranty Deed for County Property)

Exhibit D
To Interlocal Cooperation Agreement

(Special Warranty Deed for City Property)

Exhibit E
To Interlocal Cooperation Agreement

(Cross Easement Agreement)

WHEN RECORDED, RETURN TO:
Salt Lake County Real Estate Section
2001 South State Street, #S3200
Salt Lake City, Utah 84114-4575

SPECIAL WARRANTY DEED

Tax Serial No. 21-34-128-018

CITY OF WEST JORDAN, UTAH, a municipal corporation and political subdivision of the State of Utah, GRANTOR, hereby conveys and warrants against all who claim by, through, or under Grantor, to SALT LAKE COUNTY, a body corporate and politic of the State of Utah, GRANTEE, for the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the following described parcel of real property in Salt Lake County, Utah, to wit:

Lot 1, Veterans Memorial Park Subdivision, according to the official plat thereof, on file and of record in the office of the Salt Lake County Recorder (the "Property").

Tax Parcel/Serial No. 21-34-128-018

PROVIDED HOWEVER, Grantee shall not sell, convey, or transfer any interest in the Property or any portion thereof without first offering to sell the Property or any portion thereof to Grantor at the same price and upon the same terms and conditions offered by a bona fide prospective purchaser of the Property or any portion thereof. If Grantor fails to agree in writing to purchase the Property at the same price and upon the same terms and conditions offered by the bona fide prospective purchaser within thirty (30) days after written notice from Grantee, then Grantee may sell the Property or any portion thereof, and Grantor's right of first refusal shall terminate as to that portion of the Property that is sold.

AND RESERVING UNTO THE GRANTOR easements over, under, across and through the South 20.00 feet of the Property for ingress, egress and maintenance of the City's existing culinary water facilities, emergency back-up generator(s) and air conditioning cooling tower, and the North 25 feet of the Property for ingress, egress and maintenance of the City's existing sanitary sewer system, as demonstrated on the map attached hereto as Exhibit A. Grantor shall be responsible for all damages to the Property caused by Grantor's use of these easements and shall repair or restore the Property to the condition it was in prior to causing any such damages.

SUBJECT TO current general taxes, easements, restrictions, and rights-of-way of record.

IN WITNESS WHEREOF, Grantor has caused this Special Warranty Deed to be signed and its official seal to be affixed hereto by its duly authorized officer this ____ day of _____, 2014.

GRANTOR
CITY OF WEST JORDAN, UTAH

By: _____
Kim V. Rolfe, Mayor

STATE OF UTAH)
 :ss
COUNTY OF SALT LAKE)

On this ____ day of _____, 20 ____, personally appeared before me Kim V. Rolfe, who being duly sworn, did say that he is the Mayor of the City of West Jordan, Utah, and that the foregoing instrument was signed in behalf of the City of West Jordan City, Utah, and he acknowledged that said corporation executed the same.

NOTARY PUBLIC
Residing in Salt Lake County, Utah

When Recorded, Mail To:
Salt Lake County Real Estate Section
2001 South State Street, #S-3200
Salt Lake City, Utah 84114-4575

CROSS EASEMENT AGREEMENT

Tax ID. Nos. 21-34-128-018
21-34-128-020

THIS CROSS EASEMENT AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2014 by and between **SALT LAKE COUNTY**, a body corporate and politic of the state of Utah (“*County*”), and the **CITY OF WEST JORDAN, UTAH**, a municipal corporation and political subdivision of the State of Utah (the “*City*”) (collectively referred to hereafter as “*Parties*”).

RECITALS:

A. The County has purchased from the City and now owns fee title to certain real property located at 7971 South 1825 West, West Jordan, Utah, identified as Parcel No. 21-34-128-018, which is more particularly described in Exhibit A (the “*County Property*”).

B. The City owns fee title to certain real property located at 8000 South Redwood Road, West Jordan, Utah, identified as Parcel No. 21-34-128-020, which is more particularly described in Exhibit B (the “*City Property*”).

C. Prior to being acquired by the County, the County Property was used by the City as a parking lot where the citizens of West Jordan could park to attend public events at the neighboring Veterans Memorial Park, Rodeo Arena, or other functions at the adjacent West Jordan City offices.

D. The County currently intends to remove the parking lot and build a building for the Salt Lake County Health Department (“*Health Department*”) on the County Property, together with certain parking for Health Department employees and patrons.

E. The Parties wish to allow City and County patrons to jointly benefit from the parking that is currently or will become available on the County Property and the City Property. The County Property and the City Property are individually referred to herein sometimes as a “*Parcel*” and collectively as the “*Parcels*.”

AGREEMENT:

NOW, THEREFORE, in consideration of the premises, the mutual covenants and conditions contained herein, and other good and valuable consideration, the receipt and

sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. **Incorporation of Recitals.** The Recitals set forth above are incorporated herein by this reference.
2. **Grant of Easement.** The County and the City, hereby grant to each other, and their successors and assigns, employees, vendors, guests, invitees and customers, a limited perpetual easement to use the parking lots on or to be constructed on the Parcels together with a right of way for ingress and egress to and across the parking lots as provided herein.
3. **Usage of Easement on the County Property.** The parking lot to be constructed on the County Property may be used by the City and its successors and assigns, employees, vendors, guests, invitees and customers any time. However, if at any future date, the County determines that County patrons or employees cannot access the building or services the County provides, or will provide, on the County Property because of a lack of, or inaccessibility to, parking on the County Property caused by the City's use of this easement, the County reserves the right, in its sole discretion, to designate a reasonable number of parking stalls on the County Property for the exclusive use of County patrons and employees during regular business hours. The type of signage to be used to designate or identify these reserved parking stalls shall be determined by mutual agreement of the Parties.
4. **Usage of Easement on the City Property.** County and its successors and assigns, employees, vendors, guests, invitees and customers may use the parking lot on the City Property any time.
5. **Acceptance of Easement.** The Parties, together with their successors and assigns, acknowledge that the parking lots existing or to be constructed on the City Property and the County Property are all subject to the above described easement and right-of-way for use by the Parties, their successors and assigns, employees, vendors, guests, invitees and customers.
6. **Continuing and Perpetual Easement.** It is understood that this grant and easement shall, at all times, be deemed to be a continuing easement running with the land and shall be binding upon the heirs, successors and/or assigns of the Parties.
7. **Use and Notification.** The Parties acknowledge there will be occasions when normal usage patterns will be temporarily altered due to conditions such as a change in seasonal use, periods of high volume patronage to the Health Department building or public events held by the City, and holidays, etc. The Parties agree, to the extent such changes can be anticipated, to provide fourteen (14) days prior written notice to the other of any conditions or events that may change the usage patterns of the parking lots affected by this Agreement.
8. **Maintenance and Repair.** Each Party shall retain the obligation to repair and/or

maintain the parking lot on their own property. If either Party's use of the easement provided for herein causes physical damage to the Parcel owned by the other Party, the Party causing the damage shall repair or restore the Parcel to the condition it was in prior to causing such damage.

9. **Ownership, Control, and Use of the Parcels.** Notwithstanding any of the terms of this Agreement, the Parties shall retain their respective right, title, and interest in and to their own Parcel, and may fully exercise their rights in and to the parking lots existing or to be constructed on their own Parcel to the extent not inconsistent with this Agreement. ~~Notwithstanding the foregoing~~ In addition, each Party expressly reserves the right to reconfigure, expand, or contract the amount of parking available on its own Parcel and to expand, contract, or alter the use of its own Parcel (including the construction, modification or reconstruction of any buildings or other legal structures or improvements thereon) to the extent such reconfiguration, expansion, or contraction is not inconsistent with applicable law.
10. **Assignment and Assumption of This Agreement.** The easements and rights granted herein shall be appurtenant to the Parcels and shall not be separated therefrom. Upon the transfer, conveyance, pledge or mortgage of a Parcel, the easements and rights granted herein shall be deemed to be automatically transferred, conveyed, pledged or mortgaged with the Parcel. However, if either Parcel ceases to be used for a public purpose, this Agreement shall automatically terminate.
11. **Modification.** No modification of this Agreement shall be made unless it is made in writing signed by the Parties or the successor owners of the respective Parcels. Each of the provisions of this Agreement shall be independent of all of the other provisions. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, which shall remain in full force and affect, and this Agreement shall be construed, to the extent possible, as if such invalid or unenforceable provision were omitted.
12. **Dispute Resolution.** In the event of a dispute between the Parties arising directly or indirectly out of this Agreement, the Parties shall submit the dispute to mediation before any judicial action may be initiated, unless an immediate court order is needed or a statute of limitations period will run before mediation can be reasonably completed. The Parties involved shall agree upon a mediator and shall mediate the matter in good faith. Each Party shall be responsible for its own costs and shall split the cost of the mediator between them.
13. **Governing Law.** This Agreement shall be governed by the laws of the State of Utah, both as to the interpretation and performance without regard to the principles of conflicts of law. Any action involving this Agreement or any dispute hereunder shall only be brought in the state and federal courts residing in Utah.
14. **Binding Affect.** This Agreement shall inure to the benefit of and shall be legally binding upon the Parties hereto and the heirs, executors, administrators, successors and assigns and other legal representatives of them and each of them.

Field C

15. **Attorneys' Fees.** In the event there is a default under this Agreement and it becomes necessary for any Party to enforce their or its rights hereunder, then with or without arbitration or litigation, the prevailing party shall be entitled to their or its expenses, including attorneys' fees, arising out of such enforcement of their or its rights hereunder. A Party shall be deemed to be the prevailing party if its assertion of a default by another Party, or its defense of a claim of default, is upheld regardless of whether significant damages are awarded.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

SALT LAKE COUNTY

By: _____
Mayor or Designee

By: _____
Salt Lake County Clerk

STATE OF UTAH)
 :ss
COUNTY OF SALT LAKE)

On this ____ day of _____, 20____, personally appeared before me _____, who being duly sworn, did say that (s)he is the _____ of Salt Lake County, Office of Mayor, and that the foregoing instrument was signed on behalf of Salt Lake County, by authority of law.

NOTARY PUBLIC
Residing in Salt Lake County, Utah

STATE OF UTAH)
 :ss
COUNTY OF SALT LAKE)

On this ____ day of _____, 20____, personally appeared before me Sherrie Swensen, who being by me duly sworn, did say and acknowledge that (s)he is the Clerk of Salt Lake County, and that the foregoing Cross Easement Agreement was signed by her on behalf of Salt Lake County by authority of a Resolution of the Salt Lake County Council.

NOTARY PUBLIC

Residing in Salt Lake County, Utah

CITY OF WEST JORDAN, UTAH

By _____
Kim V. Wolfe, Mayor

ATTEST:

Melanie Briggs, City Recorder

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

On this ____ day of _____, 20____, personally appeared before me Kim V. Rolfe, who being duly sworn, did say that he is the Mayor of the City of West Jordan, Utah, and that the foregoing instrument was signed in behalf of the City of West Jordan, Utah, and he acknowledged that said corporation executed the same.

NOTARY PUBLIC
Residing in Salt Lake County, Utah

Exhibit A
(the “County Property”)

Lot 1, Veterans Memorial Park Subdivision, according to the official plat thereof, on file and of record in the office of the Salt Lake County Recorder.

Tax ID No. 21-34-128-018

Exhibit B
(the “City Property”)

Lot 2, Veterans Memorial Park Subdivision, according to the official plat thereof, on file and of record in the office of the Salt Lake County Recorder.

Tax ID No. 21-34-128-020